

ORIGINAL

CV 18-0753

DeARCY HALL, J.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BULSARA, M.J.

Timothy West # 4411700966

Plaintiff,

(Insert full name of plaintiff/prisoner)

CIVIL RIGHTS COMPLAINT
42 U.S.C. § 1983

JURY DEMAND

YES NO

-against-

Queen Supreme Court Barry Kron
(A.D.A.) Tara DiGregorio
Gary F. Mikell (Lawyer)
Officer John Russo (101 present)
Case Manager Shantel Rankin
Judge Peter E. Vallone, Jr
Defendant(s).

(Insert full name(s) of defendant(s). If you need additional space, please write "see attached" and insert a separate page with the full names of the additional defendants. The names listed above must be identical to those listed in Part I)

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ FEB 01 2018 ★

BROOKLYN OFFICE

- I. Parties: (In item A below, place your name in the first blank and provide your present address and telephone number. Do the same for additional plaintiffs, if any.)

A. Name of plaintiff Timothy West # 4411700966

If you are incarcerated, provide the name of the facility and address:

1600 Hazen Street (O.B.C.C.)
East Elmhurst NY 11370

Prisoner ID Number: 4411700966

If you are not incarcerated, provide your current address:

Telephone Number: () [REDACTED]

B. List all defendants. You must provide the full names of each defendant and the addresses at which each defendant may be served. The defendants listed here must match the defendants named in the caption on page 1.

Defendant No. 1

Tara DiGregorio

Full Name

A.D.A.

Job Title

125-01 Queens Blvd

Kew Gardens NY 11415

Address

Defendant No. 2

Gary F. Merit

Full Name

18B Lawyer

Job Title

31-17 Ditmar Blvd

Astoria, NY 11105

Address

(TAP A)

Queen Court (Supreme)

Full Name

Barry Kron

Job Title

Judge

Defendant-(4) Name: Peter F. Vallone
Job Title: Judge
Address: 125-01 Queens Blvd

125-01 Queens Blvd
Address: Kew Gardens, NY 11415

Defendant No. 5

Full Name: John Russo

Job Title: Detective # 4605

16-12 Mott Ave → 101 precinct

Address: Farrockaway NY 11691

Defendant No. 6

Full Name: Shantel Rankin (Case Manager)

Job Title: Social Worker (PSCH company)

Address: Flushing NY

40 Elmont Rd
Elmont NY 11003

II. Statement of Claim:

(State briefly and concisely, the facts of your case. Include the date(s) of the event(s) alleged as well as the location where the events occurred. Include the names of each defendant and state how each person named was involved in the event you are claiming violated your rights. You need not give any legal arguments or cite to cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. You may use additional 8 1/2 by 11 sheets of paper as necessary.)

Where did the events giving rise to your claim(s) occur? Queens criminal

and Supreme Court / 101 Precinct

422 beach channel 38 street Lower level bedroom

When did the events happen? (include approximate time and date) Jan 31, 2017 Time 5:38 pm

Arrest Date

At 11:30 AM

search warrant Feb 2, 2017 and is still ongoing

Violation Date and Time

Facts: (what happened?)

Arresting officer

John Russo violated 4th amendment rights when he states I re went to my apartment and met with Case manger without a search warrant and searched my room while I was already in custody. Then he states he got a search warrant the 2nd of feb at 4 pm but he had already went and searched my room the same day before search warrant was issued. My lawyer was informed about this issue and denied to put in or address issue at pretrial so I filed my own motion to suppress physical evidence. The judge DA and lawyer knows about this issue I sent motion to

them personally
It was denied.

II.A. Injuries. If you are claiming injuries as a result of the events you are complaining about, describe your injuries and state what medical treatment you required. Was medical treatment received?

Mental Anguish, Mentally ill patient, Suicidal, Received ~~consid~~ advice from phyrapist Ms Green once a month Cruel and unusual punishment, unlawful imprisonment, False reports and ducumentation.

Statement of Claim

2)

Defendant 1 Tara DiGregorio (A.D.A) for false indictment, Malicious prosecution, false charges, Coercing false charges, Unlawfully imprisonment, Excessive bail, Cruel and unusual punishment, Mental Anguish, Defamation of character,

Defendant-3 Barry Kron Supreme Court Judge
For allowing malicious prosecution
denying my right to a fair trial and
hearing after I forwarded motions
on my own behalf that was valid
and violating my constitution rights
and amendment rights, Amendment #4, 5, 8,
9, 13,

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF Queens

THE PEOPLE OF THE STATE OF NEW YORK,

RESPONDENT,

-AGAINST-

Timothy West,

DEFENDANT.

**NOTICE OF MOTION
TO
SUPPRESS PHYSICAL
EVIDENCE
PURSUANT TO
CPL § 710.20**

Docket No. 004265-17QN
Indict. No. 1194/2017
NYSID No. [REDACTED]

PLEASE TAKE NOTICE, that upon the annexed affidavit of Timothy West, duly affirmed the 12 day of Dec, 2017, and upon the indictment and all the proceedings had herein, the under signed will move this Court Tap A Supreme thereof, to be held at the courthouse located at 125-01 Queens Blvd, county of Queens, on the 1 day of Dec, 2017, at 9:30 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard for an order to **SUPPRESS PHYSICAL EVIDENCE** or in the alternative a hearing to determine whether certain physical evidence should be suppressed where defendant's rights may have been violated under the 4th Amendment of the Constitution, and pursuant to Mapp v. Ohio, 367 U.S. 843, 81 S.Ct. 1684, and pursuant to New York State Criminal Procedure Law, sections 710.20, and any further relief as the court may deem just and proper.

Yours, etc...

Timothy West
DEFENDANT

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF Queens

THE PEOPLE OF THE STATE OF NEW YORK,

RESPONDENT,

-AGAINST-

Timothy West,
DEFENDANT.

STATE OF NEW YORK)
COUNTY OF Queens) ss:

**AFFIDAVIT IN
SUPPORT OF MOTION
TO
SUPPRESS PHYSICAL
EVIDENCE
PURSUANT TO
CPL § 710.20**

Docket No. A04705-17-N

Indict. No. [REDACTED]

NYSID No. [REDACTED]

I, Timothy West, being duly sworn, deposes and says:

I am the defendant in the above-entitled action, and is personally familiar with the facts and circumstances herein stated.

I am a detainee presently being detained at OBCC,
listed hereunder the mailing address of 1600 Hazen Street, Rikers Island, East Elmhurst,
New York 11370, herein considered the County of the Bronx.

Whereupon, although I am personally familiar with all of the facts and statements hereinafter stated to the best of my knowledge, information and belief, I am a layperson in matters of the law and seek this Court's indulgence for errors, defects and faults pursuant to sec. 2101(f) of the Civil Practice Law and Rules.

On the 19 day of January, 2017, a complaint was filed
in the Criminal Court of Queens County, charging the said defendant with the

offense(s) of Burglary in the second
in violation of New York State Penal Law, section(s) PL. 140.25-2 CE.

Arraignment of the defendant on the above-mentioned complaint took place in
this Court on the 27 day of July, 2017, and defendant was held
for Grand Jury proceedings. Subsequently, defendant was indicted for the
aforementioned charges and was arraigned upon said indictment in Supreme Court,
Queens County, on the 27 day of July, 2017.

It is respectfully submitted that the search of defendant's person, property, and/or
residence was done without probable cause and/or due process and that said search
constituted an unreasonable and illegal search and seizure in violation of defendant's
Constitutional rights. Accordingly, any physical evidence obtained as a result of said
search and any subsequent alleged seizure of physical evidence resulting either directly or
indirectly from said search is illegal and inadmissible in any criminal proceedings against
defendant and should all be suppressed as a matter of law.

Whereupon, this Defendant respectfully request the Court to grant this motion to
SUPPRESS PHYSICAL EVIDENCE and thus prohibit the introduction of said
evidence at trial or any other criminal proceeding pursuant to the laws, statutes, and
arguments annexed herein.

LEGAL ARGUMENT

Detective Russo had no right or probable cause to go to my resident and observe/search anything without a warrant and before it was issued. I was already in Costody So there for detective Russo had no right to be at my apt and in my room without the search warrant. So in respect and all rights I ask the court to grant mapp hearing and to find evidence as produced to illegal search inadmissible and in violation of fourth amendment right. Mapp Vs. Ohio 367 US. 643. 81 SC. 1684 (1961)

STATEMENT OF FACTS

On Feb 2, 2017 Detective John Russo
Shield NO. 4605 of Queens robbery squad
met with my case manager Shantel Rankin
at 11:30 AM before search warrant was
issued. He stated that he observed property
inside my room. The warrant was issued
the same day but a 4 pm by Judge Vallone
Detective Russo States that he executed
the warrant on Feb 3, 2017. Which is
insufficient due to illegal search and ~~seizure~~
of said property. Detective Russo stated he
was at my apartment in the rear bedroom
without search warrant. So therefore he half
executed the warrant on the 2nd of Feb at
11:30AM Now its stated no land lord / case manager
can give police consent to a search of tenants
room or property unless a warrant is valid
because land lord / casemanger is not considered to
be in possession of a lease to my apt therefore
search or consent was invalid due to fourth
amendment. Mapp vs Ohio 367 US. 643. 81 S.Ct 1624 / 19211

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
COUNTY OF Queens) ss:

I, Timothy West, being duly sworn deposes and says:

That I have on the 1 day of Dec, 2017, placed and submitted the original and copies of this motion to be duly mailed via the United States Postal Service, through the institutional mailroom of the OBCC Correctional Facility. Said moving papers were mailed to the following concerned

parties:

District Attorney: Richard A. Brown

Queens County

ADA: Tara DiGregorio
125-01 Queens Blvd
Kew Gardens NY. 11415

Supreme Court

Queens County
125-01 Queens Blvd
Kew Gardens NY. 11415

Gary F. Miret, Defense Counsel
31-17 Ditmars Blvd
Astoria, N.Y. 11105

Yours, etc...

Timothy West
DEFENDANT

Sworn to before me this
2nd day of December, 2017.


Mark R. Pannone

NOTARY PUBLIC / COMMISSIONER OF DEEDS

ERNEST O OMOROGBE
Notary Public- State of New York
No. 01OM6152449
Qualified In Nassau County
My Commission Expires September 11, 2028

The Defendant respectfully requests the right to make any and all further motions as may be necessary as a result of information and disclosure from the granting of the requests made herein and/or information received from any record within a reasonable time.

No other application for the relief sought herein has been made to this or to any other court.

WHEREFORE, this petitioner respectfully prays that an order be issued granting this motion pursuant to the aforesaid sections of the New York State Criminal Procedure Law, and taking into consideration the facts and argument annexed herein, or, in the alternative, an order be issued granting partial relief, or whatever relief the Court sees and deems fit and appropriate to insure the swift and proper administration of justice.

Yours, etc...

Timothy West
DEFENDANT

Sworn to before me this

1st day of Dec, 2017.

Ernest O. Omorogbe
NOTARY PUBLIC / COMMISSIONER OF DEEDS

ERNEST O OMOROGBE
Notary Public- State of New York
No. 01OM6152449
Qualified in Nassau County
My Commission Expires September 11, 2018

STATE OF NEW YORK
CRIMINAL COURT OF THE CITY OF NEW YORK
QUEENS COUNTY

Inventory made publicly of property taken by the undersigned, under and pursuant to the annexed warrant:

Warrant Number Q00133/2017 issued by the Honorable Judge Vallone and
Executed on the 3 day of FEBRUARY, 2017

After completion of Warrant Number Q00133/2017, investigatory evidence was taken and
vouchered under NYPD Property Clerk Voucher #(s):

4000482504, 4000473772, 4000472856, 4000472346, 4000470404, 4000463483, 4000470369
4000463502, 4000469340, 4000463720, 4000467085, 4000462859, 4000462867, 4000462873

I, Detective John Russo, the officer by whom this warrant was executed, do swear that the above inventory contains a true and detailed account of all property taken by me on the warrant.

Officer's Name

Command:

W1 PDU

Sworn to before me, on this

of March, 2017

4/21/17

JUDGE

to arrest the occupant who objects to the search, an officer can remove the objecting occupant by arresting him or her, then search the residence based on the consent of the other occupant. (*Fernandez v. California*, U.S. Sup. Ct. 2014.)

If a spouse, roommate, or cotenant agrees to a search in a suspect's absence, and the search turns up evidence that incriminates the suspect, the evidence might well be admissible in evidence at trial. An adult in rightful possession of a house or apartment usually has legal authority to consent to a search of the entire premises. But if there are two or more separate tenants in one dwelling, courts often rule that one tenant has no power to consent to a search of the areas exclusively controlled by the other tenants (for instance, their separate bedrooms).

A tricky twist is that the other person's consent will be considered valid if the police reasonably believe that person has the authority to consent—even if that belief turns out to be wrong.

EXAMPLE: Bob's ex-wife Jan knows where Bob hides his cocaine. She calls the police and tells them about the cocaine. She directs them to Bob's house. When they get there, she opens the door with a key (she never returned it to Bob when she moved out). She puts her purse on the entry hall table, opens the hall closet, and puts on a sweater that appears to be hers. She then leads the police to the place where Bob stores his cocaine. As far as the police know, Jan lives in the apartment and has full authority to consent to the search. Even though Jan and the police entered

the apartment without Bob's permission, the search did not violate Bob's Fourth Amendment rights. The police reasonably (though mistakenly) thought that Jan had the authority to consent to the search.

While I'm out, may the landlord of the apartment building where I live give a police officer valid consent to search my apartment?

No. The landlord is not considered to be in possession of an apartment leased to a tenant, and therefore lacks authority to consent to a search of leased premises. The same is true for hotel operators.

Can the police search my hotel room without a warrant?

The general rule is, no. Again, however, an exception (such as consent or an emergency) may exist that would justify a warrantless hotel room search.

If my employer consents to a police search of my workspace, are the results of the search admissible in evidence?

Probably. An employer can validly consent to a search of company premises. An employer's consent extends to employees' work areas, such as desks and machinery. However, police officers might need a warrant to search a clearly private area, such as an employee's clothes locker.

Can my child let the police search our home while I am at work?

This depends primarily on the child's age. The younger the child, the less authority

To: United States District Court
From: Timothy West #4411700966
Date: 1-3-18
Place: O.B.C.C. 1600 Hazen street

The documents that I am forwarding to you are all facts of this matter. I respectfully request that the United States district courts to find in my favor and address this issue in a timely manner. Queens Supreme A.D.A., Judge and my lawyer is working against me. The Detective John Russo of the 101 precinct in Farrockaway Queens is in violation of the search warrant because he states he met with case manager Shantel Rankin on Feb 2, 2017 at 11:30 AM and search and observed property ~~then~~ while I was already in custody and without probable cause then he got the search warrant the same day Feb 2, 2017 at 4 pm the he states he executed the warrant on the 3rd of Feb. And I have already addressed this issue to all parties in this matter and they are over looking it so I

request that the courts address
my concern. And serve all parties
involved. Sincerely Timothy West

Statement of Claim

False arrest, Mental Anguish, lying, and ~~Deception~~
Defendant-5 Officer John Russo # 4635 of Queens
robbery squad violated my 4th amendment
right and lied under oath in my case.
Documentation of proof if needed.

Defendant-6 Shantel Rankin of P.S.C.H. case manager
violated my 4th amendment rights and
other rights as a mentally ill patient
by unlocking my bedroom door for
officer John Russo to conduct and
observe and search my personal
property without search warrant.

Defendant-4 Judge Peter F. Vallone for
signing off on search warrant
without probable cause and knowingly
of affidavit of officer John Russo
was insufficient.

Defendant -2 Lawyer Gary E. Merit for denying
to address my mapp hearing motion
and denying me my right to enter
evidence on my behalf and my right
to a fair trial and lying about paper
work I requested numerous times
and is effective console, Breaching Confidentiality.